

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

**CHRYSTOPHER LEE,**

Plaintiff,

v.

Civil Action No. **3:08cv99**

**PATRICK GURNEY, *et al.*,**

Defendants.

**MEMORANDUM ORDER**

Plaintiff, a Muslim inmate proceeding *pro se*, filed this action alleging that Defendants violated his rights by not allowing him to engage in group prayer in the prison recreation yard at the Nottoway Correctional Center (“NCC”). By Memorandum Order entered June 1, 2010, the Court directed Defendants to submit a revised brief in support of their motion for summary judgment. The Court also directed the parties to brief their positions on whether Plaintiff’s transfer from NCC renders his claims for injunctive relief moot and to brief their positions as to whether Plaintiff is entitled to damages under the Religious Land Use and Institutionalized Persons Act (“RLUIPA”). Defendants filed a revised memorandum in support of their motion for summary judgment. Defendants also filed separate responses with respect to the issue of mootness and monetary damages under RLUIPA.<sup>1</sup>

The Court intends to treat Defendants’ arguments with respect to mootness and damages under RLUIPA as an expansion of Defendants’ motion for summary judgment under Federal Rule of Civil Procedure 56 (hereinafter the “expanded motion for summary judgment”). In accordance with *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), Plaintiff is advised that,

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<sup>1</sup> Plaintiff also has filed responses to the motion for summary judgment and the Court’s directions to address the issues of mootness and damages under RLUIPA.

within eleven (11) days of the date of entry hereof, he is entitled to file a further response opposing the expanded motion for summary judgment that includes counter-affidavits,<sup>2</sup> statements, exhibits, or other legal or factual material that supports his position in the case. In addition to such material, Plaintiff is entitled to file a legal brief in opposition to the one filed by Defendants.

Plaintiff is further advised that if he does not file a response to the expanded motion for summary judgment and send a complete copy of his reply to Defendants, the Court will decide the motion on the papers already filed by Plaintiff and Defendants. A decision favoring Defendants may result in the dismissal of the action.

The Clerk is DIRECTED to send a copy of this Memorandum Order to Plaintiff and counsel for Defendants.

It is so ORDERED.

/s/   
M. Hannah Lauck  
United States Magistrate Judge

Date: 7-16-10  
Richmond, Virginia

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<sup>2</sup> An affidavit is a sworn statement of facts made on personal knowledge, and affidavits may be submitted by Plaintiff or any other witnesses. There are two alternative ways to submit an affidavit to the Court. One way is for the person making the affidavit to sign the affidavit and swear to the truth before a notary public. The other way, which does not require a notary public, is for the person making the affidavit to sign the affidavit and certify that he signs under penalty of perjury and understands that he may be prosecuted if the facts he sets forth are untrue.